

# HOUSE BILL 902

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CF SB 643

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By: **Delegates Lafferty, Arora, Braveboy, Carr, Cullison, Dumais, Glenn, Healey, Hucker, A. Kelly, Luedtke, Mitchell, Mizeur, Reznik, S. Robinson, Waldstreicher, and Zucker**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Human Relations – Housing Discrimination – Source of Income**

3 FOR the purpose of expanding the housing policy of the State to include providing for  
4 fair housing to all citizens regardless of source of income; prohibiting a person  
5 from refusing to sell or rent a dwelling to any person because of source of  
6 income; establishing certain qualifications and limitations on the general  
7 prohibition against discrimination in housing based on source of income;  
8 prohibiting a person from discriminating against any person in the terms,  
9 conditions, or privileges of the sale or rental of a dwelling because of source of  
10 income; prohibiting a person from making, printing, or publishing certain types  
11 of materials with respect to the sale or rental of a dwelling that indicate a  
12 preference, limitation, or discrimination on the basis of source of income;  
13 prohibiting a person from falsely representing that a dwelling is not available  
14 for inspection, sale, or rental based on source of income; prohibiting a person  
15 from inducing or attempting to induce, for profit, a person to sell or rent a  
16 dwelling by making certain representations relating to the entry or prospective  
17 entry into the neighborhood of a person having a particular source of income;  
18 prohibiting a person whose business includes engaging in residential real estate  
19 transactions from discriminating against any person in making available a  
20 transaction, or in the terms or conditions of a transaction, because of source of  
21 income; prohibiting a person from denying a person, based on source of income,  
22 access to or membership or participation in a service, organization, or facility  
23 relating to the business of selling or renting dwellings, or to discriminate  
24 against a person in the terms or conditions of membership; prohibiting a person  
25 from, by force or threat of force, willfully injuring, intimidating, or interfering  
26 with any person because of source of income and because the person is  
27 negotiating for the sale or rental of any dwelling or participating in any service  
28 relating to the business of selling or renting dwellings; defining a certain term;  
29 providing that certain provisions concerning source of income do not apply to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain housing; and generally relating to prohibitions against discrimination in  
2 housing based on source of income.

3 BY repealing and reenacting, with amendments,  
4 Article – State Government  
5 Section 20–701, 20–702, 20–704, 20–705, 20–707, and 20–1103  
6 Annotated Code of Maryland  
7 (2009 Replacement Volume and 2010 Supplement)

8 Preamble

9 WHEREAS, The General Assembly recognizes that equality, fairness, and  
10 opportunity for Maryland residents require protection by government and that  
11 security, mobility, and economic opportunity are enhanced by the location of a person’s  
12 home; and

13 WHEREAS, Discrimination in housing based on a person’s source of income  
14 primarily affects persons that the General Assembly has already determined to need  
15 legal protection from discrimination such as families with children, people of color, and  
16 people with disabilities; and

17 WHEREAS, 12 states, including California, Connecticut, Maine, Massachusetts,  
18 Minnesota, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont, and  
19 Wisconsin, and the District of Columbia, and over 30 localities across the country have  
20 laws prohibiting discrimination based on a person’s source of income; and

21 WHEREAS, This Act will not prevent private landlords from considering  
22 relevant, nondiscriminatory factors in screening rental applicants, including an  
23 applicant’s ability to comply with lease terms and prior tenancy history; now,  
24 therefore,

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article – State Government**

28 20–701.

29 (a) In this subtitle the following words have the meanings indicated.

30 (b) (1) “Disability” means:

31 (i) a physical or mental impairment that substantially limits  
32 one or more of an individual’s major life activities;

33 (ii) a record of having a physical or mental impairment that  
34 substantially limits one or more of an individual’s major life activities; or

1 (iii) being regarded as having a physical or mental impairment  
2 that substantially limits one or more of an individual's major life activities.

3 (2) "Disability" does not include the current illegal use of or addiction  
4 to:

5 (i) a controlled dangerous substance, as defined in § 5-101 of  
6 the Criminal Law Article; or

7 (ii) a controlled substance, as defined in 21 U.S.C. § 802.

8 (c) "Discriminatory housing practice" means an act that is prohibited under §  
9 20-705, § 20-706, § 20-707, or § 20-708 of this subtitle.

10 (d) "Dwelling" means:

11 (1) any building, structure, or portion of a building or structure that is  
12 occupied, or designed or intended for occupancy, as a residence by one or more  
13 families; and

14 (2) any vacant land that is offered for sale or lease for the construction  
15 or location on the land of any building, structure, or portion of a building or structure  
16 described in item (1) of this subsection.

17 (e) (1) "Familial status" means the status of one or more minors who are  
18 domiciled with:

19 (i) a parent or other person having legal custody of the minor;  
20 or

21 (ii) the designee of a parent or other person having legal custody  
22 of the minor with the written permission of the parent or other person.

23 (2) "Familial status" includes the status of being:

24 (i) a pregnant woman; or

25 (ii) an individual who is in the process of securing legal custody  
26 of a minor.

27 (f) "Family" includes a single individual.

28 (g) "In the business of selling or renting dwellings" means:

29 (1) within the preceding 12 months, participating as a principal in  
30 three or more transactions involving the sale or rental of any dwelling or any interest  
31 in a dwelling;

1 (2) within the preceding 12 months, participating as an agent, other  
 2 than in the sale of the individual's own personal residence, in providing sales or rental  
 3 facilities or services in two or more transactions involving the sale or rental of any  
 4 dwelling or any interest in a dwelling; or

5 (3) being the owner of any dwelling occupied, or designed or intended  
 6 for occupancy, by five or more families.

7 (h) "Marital status" means the state of being single, married, separated,  
 8 divorced, or widowed.

9 (i) "Rent" includes to lease, sublease, let, or otherwise grant for a  
 10 consideration the right to occupy premises not owned by the occupant.

11 **(J) (1) "SOURCE OF INCOME" MEANS ANY LAWFUL SOURCE OF**  
 12 **MONEY PAID DIRECTLY OR INDIRECTLY TO, OR ON BEHALF OF, A RENTER OR**  
 13 **BUYER OF HOUSING.**

14 **(2) "SOURCE OF INCOME" INCLUDES INCOME FROM:**

15 **(I) A LAWFUL PROFESSION, OCCUPATION, OR JOB;**

16 **(II) ANY GOVERNMENT OR PRIVATE ASSISTANCE, GRANT,**  
 17 **LOAN, OR RENTAL ASSISTANCE PROGRAM, INCLUDING LOW-INCOME HOUSING**  
 18 **ASSISTANCE CERTIFICATES AND VOUCHERS ISSUED UNDER THE UNITED**  
 19 **STATES HOUSING ACT OF 1937;**

20 **(III) A GIFT, AN INHERITANCE, A PENSION, AN ANNUITY,**  
 21 **ALIMONY, CHILD SUPPORT, OR OTHER CONSIDERATION OR BENEFIT; OR**

22 **(IV) THE SALE OR PLEDGE OF PROPERTY OR AN INTEREST IN**  
 23 **PROPERTY.**

24 20-702.

25 (a) It is the policy of the State:

26 (1) to provide for fair housing throughout the State to all, regardless of  
 27 race, color, religion, sex, familial status, national origin, marital status, sexual  
 28 orientation, [or] disability, **OR SOURCE OF INCOME**; and

29 (2) to that end, to prohibit discriminatory practices with respect to  
 30 residential housing by any person, in order to protect and insure the peace, health,  
 31 safety, prosperity, and general welfare of all.

32 (b) This subtitle:

1           (1) is an exercise of the police power of the State for the protection of  
2 the people of the State; and

3           (2) shall be administered and enforced by the Commission and, as  
4 provided in this title, enforced by the appropriate State court.

5 20–704.

6           (a) This subtitle does not apply to:

7           (1) the sale or rental of a single–family dwelling, if the dwelling is sold  
8 or rented without:

9           (i) the use of the sales or rental facilities or services of any:

10                   1. real estate broker, agent, or salesperson;

11                   2. agent of any real estate broker, agent, or salesperson;

12                   3. person in the business of selling or renting dwellings;

13 or

14                   4. agent of a person in the business of selling or renting  
15 dwellings; or

16           (ii) the publication, posting, or mailing, after notice, of any  
17 advertisement or written notice in violation of this subtitle; and

18           (2) with respect to discrimination on the basis of sex, sexual  
19 orientation, or marital status:

20           (i) the rental of rooms in any dwelling, if the owner maintains  
21 the dwelling as the owner’s principal residence; or

22           (ii) the rental of any apartment in a dwelling that contains not  
23 more than five rental units, if the owner maintains the dwelling as the owner’s  
24 principal residence.

25           (b) The use of attorneys, escrow agents, abstractors, title companies, and  
26 other similar professional assistance as necessary to perfect or transfer the title to a  
27 single–family dwelling does not subject a person to this subtitle if the person otherwise  
28 would be exempted under subsection (a) of this section.

29           (c) (1) (i) In this subsection, “housing for older persons” means  
30 housing:

1                   1.     provided under any State or federal program that is  
2 specifically designed and operated to assist elderly persons, as defined in the State or  
3 federal program;

4                   2.     intended for, and solely occupied by, persons who are  
5 at least 62 years old;

6                   3.     intended and operated for occupancy by at least one  
7 person who is at least 55 years old in each unit; or

8                   4.     that meets the requirements set forth in regulations  
9 adopted by the Secretary of Housing and Urban Development under 42 U.S.C. §  
10 3607(b)(2)(C).

11                   (ii)    “Housing for older persons” includes:

12                   1.     unoccupied units, if the units are reserved for  
13 occupancy by persons who meet the age requirements of subparagraph (i) of this  
14 paragraph; or

15                   2.     units occupied as of September 13, 1988 by persons  
16 who do not meet the age requirements of subparagraph (i) of this paragraph, if the  
17 new occupant of the unit meets the age requirement.

18                   (2)    The provisions in this subtitle concerning familial status do not  
19 apply to housing for older persons.

20                   **(D) (1) IN THIS SUBSECTION, “ASSISTED RENTAL HOUSING**  
21 **DEVELOPMENT” MEANS A DEVELOPMENT CONSISTING OF FOUR OR MORE**  
22 **CONTIGUOUS RENTAL UNITS IN WHICH 20% OR MORE OF THE UNITS ARE**  
23 **REQUIRED TO BE RENTED TO HOUSEHOLDS WITH AN INCOME THAT DOES NOT**  
24 **EXCEED 50% OF THE AREA MEDIAN INCOME UNDER A FEDERAL, STATE, OR**  
25 **LOCAL GOVERNMENT HOUSING ASSISTANCE PROGRAM.**

26                   **(2) THE PROVISIONS OF THIS SUBTITLE CONCERNING**  
27 **DISCRIMINATION ON THE BASIS OF SOURCE OF INCOME DO NOT APPLY TO THE**  
28 **RENTAL OF A UNIT IN AN ASSISTED RENTAL HOUSING DEVELOPMENT IF THE**  
29 **SOURCE OF INCOME IS RENTAL ASSISTANCE.**

30                   **(E) THE PROHIBITIONS IN THIS SUBTITLE AGAINST DISCRIMINATION**  
31 **BASED ON SOURCE OF INCOME DO NOT:**

32                   **(1) PROHIBIT A PERSON FROM DETERMINING THE ABILITY OF A**  
33 **POTENTIAL BUYER OR RENTER TO PAY A PURCHASE PRICE OR PAY RENT BY**  
34 **VERIFYING, IN A COMMERCIALY REASONABLE MANNER, THE SOURCE AND**

1 AMOUNT OF INCOME AND CREDITWORTHINESS OF THE POTENTIAL BUYER OR  
2 RENTER; OR

3 (2) PREVENT A PERSON FROM REFUSING TO CONSIDER INCOME  
4 DERIVED FROM ANY CRIMINAL ACTIVITY.

5 20–705.

6 Except as provided in §§ 20–703 and 20–704 of this subtitle, a person may not:

7 (1) refuse to sell or rent after the making of a bona fide offer, refuse to  
8 negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to  
9 any person because of race, color, religion, sex, disability, marital status, familial  
10 status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME**;

11 (2) discriminate against any person in the terms, conditions, or  
12 privileges of the sale or rental of a dwelling, or in the provision of services or facilities  
13 in connection with the sale or rental of a dwelling, because of race, color, religion, sex,  
14 disability, marital status, familial status, sexual orientation, [or] national origin, **OR**  
15 **SOURCE OF INCOME**;

16 (3) make, print, or publish, or cause to be made, printed, or published,  
17 any notice, statement, or advertisement with respect to the sale or rental of a dwelling  
18 that indicates any preference, limitation, or discrimination based on race, color,  
19 religion, sex, disability, marital status, familial status, sexual orientation, [or]  
20 national origin, **OR SOURCE OF INCOME**, or an intention to make any preference,  
21 limitation, or discrimination;

22 (4) represent to any person, because of race, color, religion, sex,  
23 disability, marital status, familial status, sexual orientation, [or] national origin, **OR**  
24 **SOURCE OF INCOME**, that any dwelling is not available for inspection, sale, or rental  
25 when the dwelling is available; or

26 (5) for profit, induce or attempt to induce any person to sell or rent  
27 any dwelling by representations regarding the entry or prospective entry into the  
28 neighborhood of a person of a particular race, color, religion, sex, disability, marital  
29 status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF**  
30 **INCOME**.

31 20–707.

32 (a) In this section, “residential real estate–related transaction” means:

33 (1) the making or purchasing of loans or providing other financial  
34 assistance:

1 (i) for purchasing, constructing, improving, repairing, or  
2 maintaining a dwelling; or

3 (ii) secured by residential real estate; or

4 (2) the selling, brokering, or appraising of residential real property.

5 (b) (1) A person whose business includes engaging in residential real  
6 estate-related transactions may not discriminate against any person in making  
7 available a transaction, or in the terms or conditions of a transaction, because of race,  
8 color, religion, sex, disability, marital status, familial status, sexual orientation, [or]  
9 national origin, **OR SOURCE OF INCOME**.

10 (2) Paragraph (1) of this subsection does not prohibit a person engaged  
11 in the business of furnishing appraisals of real property from taking into consideration  
12 factors other than race, color, religion, sex, disability, marital status, familial status,  
13 sexual orientation, [or] national origin, **OR SOURCE OF INCOME**.

14 (c) A person may not, because of race, color, religion, sex, disability, marital  
15 status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF**  
16 **INCOME**:

17 (1) deny a person access to, or membership or participation in, a  
18 multiple-listing service, real estate brokers' organization, or other service,  
19 organization, or facility relating to the business of selling or renting dwellings; or

20 (2) discriminate against a person in the terms or conditions of  
21 membership or participation.

22 20-1103.

23 (a) In this section, "disability", "dwelling", "familial status", "marital status",  
24 [and] "rent", **AND "SOURCE OF INCOME"** have the meanings stated in § 20-701 of  
25 this title.

26 (b) Whether or not acting under color of law, a person may not, by force or  
27 threat of force, willfully injure, intimidate, interfere with, or attempt to injure,  
28 intimidate, or interfere with:

29 (1) any person because of race, color, religion, sex, disability, marital  
30 status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF**  
31 **INCOME** and because the person is or has been:

32 (i) selling, purchasing, renting, financing, occupying, or  
33 contracting or negotiating for the sale, purchase, rental, financing, or occupation of  
34 any dwelling; or

1 (ii) applying for or participating in any service, organization, or  
2 facility relating to the business of selling or renting dwellings;

3 (2) any person because the person is or has been, or in order to  
4 intimidate the person or any other person or any class of persons from:

5 (i) participating, without discrimination on account of race,  
6 color, religion, sex, disability, marital status, familial status, sexual orientation, [or]  
7 national origin, **OR SOURCE OF INCOME** in any of the activities, services,  
8 organizations, or facilities described in item (1) of this subsection; or

9 (ii) affording another person or class of persons the opportunity  
10 or protection to participate in any of the activities, services, organizations, or facilities  
11 described in item (1) of this subsection; or

12 (3) any person because the person is or has been, or in order to  
13 discourage the person or any other person from:

14 (i) lawfully aiding or encouraging other persons to participate,  
15 without discrimination on account of race, color, religion, sex, disability, marital  
16 status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF**  
17 **INCOME** in any of the activities, services, organizations, or facilities described in item  
18 (1) of this subsection; or

19 (ii) participating lawfully in speech or peaceful assembly  
20 opposing any denial of the opportunity to participate in any of the activities, services,  
21 organizations, or facilities described in item (1) of this subsection.

22 (c) A person who violates this section is guilty of a misdemeanor and on  
23 conviction is subject to:

24 (1) imprisonment not exceeding 1 year or a fine not exceeding \$1,000  
25 or both;

26 (2) if the violation results in bodily injury, imprisonment not  
27 exceeding 10 years or a fine not exceeding \$10,000 or both; or

28 (3) if the violation results in death, imprisonment not exceeding life.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2011.